

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of:

Beatty *et al.*

Appl. No.: 10/706,484

Filed: November 12, 2003

For: **Endocardial Mapping System**

Confirmation No.: 7593

Art Unit: 3739

Examiner: Lee S. Cohen

Atty. Docket: 2384.002REI2

**Petition for Late Entry of Priority Claim and/or
Priority Papers Under 37 C.F.R. § 1.78**

Commissioner for Patents

PO Box 1450

Alexandria, VA 22313-1450

Attn. Petitions Examiner Office of the
Deputy Assistant Commissioner for Patents

Sir:

Applicants petition for late entry of a priority claim under 37 C.F.R. § 1.78.

Priority under 35 USC § 120 is hereby claimed to:

U.S. Patent application Ser. No. 08/376,067, filed January 20, 1995, which issued as U.S. Patent No. 5,553,611, which is a continuation of U.S. Patent application Ser. No. 08/178,128, filed January 6, 1994 (abandoned); and Ser. No. 08/387,832 filed on May 26, 1995, now U.S. Patent No. 6,240,307, which is a 371 of PCT/US93/09015 filed on September 23, 1993, which was a Continuation-in-Part of Ser. No. 07/950,448, filed September 23, 1992, which issued as U.S. Patent No. 5,297,549 and Ser. No. 07/949,690 filed September 23, 1992, now issued as U.S. Patent No. 5,311,866.

This application is a reissue of Ser. No. 08/387,832 filed on May 26, 1995, now U.S. Patent No. 6,240,307. The '832 application is a 371 of PCT/US93/09015 filed on September 23, 1993, which in turn claimed priority to and was a Continuation-in-Part of Ser. No. 07/950,448, filed September 23, 1992, which issued as U.S. Patent No.

5,297,549 and Ser. No. 07/949,690 filed September 23, 1992, now issued as U.S. Patent No. 5,311,866.

Due to an error without deceptive intent, Applicants originally neglected to claim priority under 35 U.S.C. §120 to Application No. 08/376,067 and its parent application Ser. No. 08/178,128, filed January 6, 1994. This reissue application was filed to correct that error. In accordance with the requirements of 37 C.F.R. § 1.78(a), an amendment was filed concurrently with the filing of the reissue application to amend the first page of the specification to reference the '067 application to which priority is claimed. Due to an oversight, Applicants failed to identify the relationship of the applications as required by 37 C.F.R. §1.78(a)(2)(i). This error was first brought to the attention of Applicants in an Office Action dated April 8, 2005. On May 3, 2005, less than one month following the mailing of the Office Action, Applicants submitted a responsive Amendment in which the relationship of the '067 application to the present reissue application was clearly set forth.

The claim for priority to the '067 and '128 applications is proper because the '832 application was, by virtue of its effective filing date, which is at least as early as September 23, 1993, co-pending with the '128 and '067 applications. Further, the '832 and '128 applications have at least one inventor in common, as required by 37 C.F.R. §1.78(a)(1).

The specific reference to the claim for priority to the '448 and '690 applications is merely a formality. As noted above, the '832 application was a 371 of PCT/US93/09015, which itself claimed priority to the '448 and '690 applications. Nevertheless, should it be

necessary to petition for inclusion of the '448 and '690 applications in the priority claim, it is respectfully requested that this petition encompass such request.

Applicants submit that the granting of this Petition will be in the best interests of the public and the patentees. The failure to claim priority to the '067 and '128 applications, and to the '448 and '690 applications, should such be necessary, was unintentional and to the best of the undersigned's knowledge, information and belief, the entire delay between the date the claim for priority was due under 37 C.F.R. §1.178(a)(2) and the date the claim was filed was unintentional.

The petition fee as set forth under 37 C.F.R. § 1.17(t) is to be paid as follows:

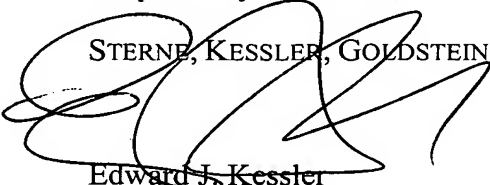
- ☒ PTO-2038 Credit Card Payment Form is attached.
- ☐ Charge Deposit Account No. 19-0036 for an underpayment of the fee due.

A duplicate copy of the petition is attached.

Applicant(s) hereby authorize the U.S. Patent and Trademark Office to charge any fee deficiency, or credit any overpayment, to our Deposit Account No. 19-0036.

Respectfully submitted,

STERNE, KESSLER, GOLDSTEIN & FOX P.L.L.C.


Edward J. Kessler
Attorney for Applicants
Registration No. 25,688

Date: 24 Aug. 2005

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Effective on 12/08/2004.

Fees pursuant to the Consolidated Appropriations Act, 2005 (H.R. 4818).

FEE TRANSMITTAL
For FY 2005**Complete if Known**☐ Applicant claims small entity status. See 37 CFR 1.27

TOTAL AMOUNT OF PAYMENT (\$) 1,370

Application Number	10/706,484
Filing Date	November 12, 2003
First Named Inventor	Graydon Ernest Beatty
Examiner Name	Lee S. Cohen
Art Unit	3739
Attorney Docket No.	2384.002RE12

METHOD OF PAYMENT (check all that apply)☐ Check ☒ Credit Card ☐ Money Order ☐ None ☐ Other (please identify): _____☒ Deposit Account Deposit Account Number: 19-0036 Deposit Account Name: Sterne, Kessler, Goldstein & Fox P.L.L.C.

For the above-identified deposit account, the Director is hereby authorized to: (check all that apply)

☐ Charge fee(s) indicated below ☐ Charge fee(s) indicated below, except for the filing fee☒ Charge any additional fee(s) or underpayments of fee(s) under 37 CFR 1.16 and 1.17 ☒ Credit any overpayments

WARNING: Information on this form may become public. Credit card information should not be included on this form. Provide credit card information and authorization on PTO-2038.

FEE CALCULATION**1. BASIC FILING, SEARCH, AND EXAMINATION FEES**

Application Type	FILING FEES		SEARCH FEES		EXAMINATION FEES		Fees Paid (\$)
	Fee (\$)	Small Entity Fee (\$)	Fee (\$)	Small Entity Fee (\$)	Fee (\$)	Small Entity Fee (\$)	
Utility	300	150	500	250	200	100	
Design	200	100	100	50	130	65	
Plant	200	100	300	150	160	80	
Reissue	300	150	500	250	600	300	
Provisional	200	100	0	0	0	0	

2. EXCESS CLAIM FEES

Fee Description	Fee (\$)	Small Entity Fee (\$)
Each claim over 20 or, for Reissues, each claim over 20 and more than in the original patent	50	25
Each independent claim over 3 or, for Reissues, each independent claim more than in the original patent	200	100
Multiple dependent claims	360	180

Total Claims	Extra Claims	Fee (\$)	Fee Paid (\$)	Multiple Dependent Claims	Fee (\$)	Fee Paid (\$)
_____ - 20 or HP	= _____ x _____	= _____				
HP = highest number of total claims paid for, if greater than 20						
Indep. Claims	Extra Claims	Fee (\$)	Fee Paid (\$)			
_____ - 3 or HP	= _____ x _____	= _____				
HP = highest number of independent claims paid for, if greater than 3						

3. APPLICATION SIZE FEE

If the specification and drawings exceed 100 sheets of paper, the application size fee due is \$250 (\$125 for small entity) for each additional 50 sheets or fraction thereof. See 35 U.S.C. 41(a)(1)(G) and 37 CFR 1.16(s).

Total Sheets	Extra Sheets	Number of each additional 50 or fraction thereof	Fee (\$)	Fee Paid (\$)
_____ - 100 = _____	/ 50 = _____	(round up to a whole number) x _____	= _____	

4. OTHER FEE(S)

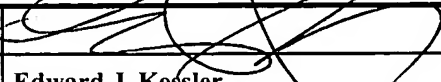
Non-English Specification, \$130 fee (no small entity discount)

Other: Petition Fee for 37 C.F.R. 1.17(t)

Fees Paid (\$)

1,370

SUBMITTED BY

Signature		Registration No. (Attorney/Agent)	25,688	Telephone	(202) 371-2600
Name (Print/Type)	Edward J. Kessler	Date	24 Aug. 2005		

This collection of information is required by 37 CFR 1.136. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 30 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.